

**CINDY S. TIPTON, *next friend of* SRB, a minor,**

**Plaintiff,**

**V.**

**JAMES STEGALL, in his official and individual capacities; PETER G. BROCKMAN; and PAMELA BROCKMAN;**

## Defendants.

**No. 3:09-cv-07  
(Phillips)**

# MEMORANDUM OPINION

This matter is before the court on Plaintiff's Notice of Voluntary Dismissal Without Prejudice [Doc. 32]. On August 10, 2009, plaintiff filed a notice of voluntary dismissal, requesting that this matter be dismissed without prejudice as to all defendants. Defendants did not join the notice.

Rule 41 of the Federal Rules of Civil Procedure provides that a “plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; or (ii) a stipulation of dismissal signed by all parties who have appeared.” Fed. R. Civ. P. 41(a)(1)(A)(i)-(ii). Because all defendants have answered, [Docs. 13, 29]<sup>1</sup>, and they did not sign a stipulation of dismissal, the “action may be dismissed at the plaintiff’s request only by court order,” Fed. R. Civ. P. 41(a)(2). However, as the deadline for timely response to the notice has passed, E.D.TN. LR 7.1(a); *see also* Fed. R. Civ. P.

<sup>1</sup> Defendant James Stegall answered in his individual capacity, [Doc. 13], and filed a motion to dismiss in his official capacity, [Doc. 15].

6, with no objections by the defendants, the court finds that dismissal is proper.

Accordingly, this action is hereby **DISMISSED WITHOUT PREJUDICE** as to all remaining defendants. Further, attorneys Paul W. Moser and Ted A. Burkhalter are hereby permitted to withdraw as counsel for the Plaintiffs and are removed as surety for any costs associated with this matter.

**IT IS SO ORDERED.**

**ENTER:**

s/ Thomas W. Phillips  
United States District Judge